

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DONALD DACE, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:07CV239 RWS
)	
JOSEPH BARTHOLOMEW, et al.,)	
)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before me on defendants' motions to dismiss the complaint. The motions will be denied because the complaint does state a claim that, if proven, would entitle plaintiffs to relief. Plaintiffs are entitled to plead alternative theories of recovery, and dismissal is inappropriate for this reason. However, defendants also argue that plaintiffs are not entitled to some of the damages claimed in the complaint. Plaintiffs acknowledge that their prayer for relief might be confusing in some respects and simply ask me to allow them to recover their proper damages. It is the plaintiffs' province -- not the Court's -- to plead the causes of action and specify the damages sought for each count of the complaint. Therefore, I will allow plaintiffs thirty (30) days from the date of this Order to amend their complaint to clarify the damages sought for each cause of action

alleged in the complaint.

Accordingly,

IT IS HEREBY ORDERED that defendants' motions to dismiss [#6, #9] are denied, and plaintiffs are granted thirty days from the date of this Order to amend their complaint.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 14th day of June, 2007.